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09/919,391	07/31/2001	Gregory P. Fitzpatrick	BOC9-2000-0084(219)	3428

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EXAMINER
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DANIEL JR, WILLIE J

ART UNIT	PAPER NUMBER
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2686

DATE MAILED: 02/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/919,391

Applicant(s)

FITZPATRICK ET AL.

Examiner

Willie J. Daniel, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12/13/2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This action is in response to applicant's RCE filed on 13 December 2004 and amendment filed on 12 November 2004. **Claims 1-19** are now pending in the present application.

#### *Continued Examination Under 37 CFR 1.114*

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 13 December 2004 has been entered.

#### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

**Claim 19** is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

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Regarding **Claim 19**, Applicant claims "... automatically placing the call..." on pg. 7, line 3 of the claim. Applicant cites (see last amendment Remarks/Arguments pg. 8, 4<sup>th</sup> paragraph; pg. 9, 1<sup>st</sup> paragraph) that support for claim 19 is in specification (see pg. 6, lines 8-13; pg. 9, lines 6-8, 14-21). According to the cited areas, the full specification and drawings, there is only support for deferring the call and placing the call at a more appropriate time (see pg. 6, lines 8-13). The Examiner interprets the claim as "automatically placing the call". The specification only has emphasis of "placing the call at a more appropriate time" which does not indicate being "automatic": Examiner requests the Applicant to provide pages and lines in the specification that supports the claim(s) language. Appropriate correction is required.

4. This list of examples is not intended to be exhaustive.

#### ***Double Patenting***

5. Applicant is advised that should **claim 17** be found allowable, **claim 18** will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 16-18** are rejected under 35 U.S.C. 102(b) as being anticipated by Rignell et al. (hereinafter Rignell) (US 5,818,920).

Regarding **Claim 16**, Rignell discloses a method for providing subscriber which reads on the claimed “call recipient” local information (see abstract; col. 3, lines 28-50; Figs. 1-3) comprising the steps of:

identifying an attempt to establish a call which reads on the claimed “telephone call” between an originating terminal (A) which reads on the claimed “source” and a receiving handheld terminal (C) which reads on the claimed “device” (see col. 5, lines 5-21);

responsive to said identifying step, determining information local to said receiving handheld device (C) (see col. 5, lines 15-19; col. 4, lines 60-64; Fig. 3), where the local information is the time and time zone of the receiving handheld device; and

providing said determined local information to said originating call source (A), said originating call source (A) deciding whether to complete said telephone call or terminate said telephone call based upon said determined local information, wherein the local information includes a time and at least one of a date, day and location (e.g., Time Zone 2 or geographic area) where the receiving handheld device (C) is located (see col. 5, lines 15-19; col. 4, lines

60-64; col. 2, lines 28-31; col. 6, lines 64-67; Figs. 1-4), where the calling subscriber can confirm or decide whether to complete the connection or discontinue.

Regarding **Claim 17**, Rignell discloses the method of claim 16, wherein the local information includes a time and at least two of a date, day, and location (e.g., Time Zone 2 or geographic area) where said receiving device is located (see col. 5, lines 15-19; col. 2, lines 28-31; col. 6, lines 64-67; col. 4, lines 60-64; Figs. 1-4), where the local information includes the local time of day and the time zone that the receiving handheld device is located in which the date would be inherent which is due to the location and/or time zone of the calling device relative to location of receiving device based on the 24 longitudinal divisions (i.e., time zones) for time keeping of the earth.

Regarding **Claim 18**, Rignell discloses the method of claim 16, wherein the local information includes a time, a date, a day, and location (e.g., Time Zone 2 or geographic area) where said receiving device is located (see col. 5, lines 15-19; col. 2, lines 28-31; col. 6, lines 64-67; Figs. 1-4), where the local information includes the local time of day and the time zone that the receiving handheld device is located in which the date would be inherent which is due to the location and/or time zone of the calling device relative to location of receiving device based on the 24 longitudinal divisions (i.e., time zones) for time keeping of the earth.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rignell et al. (hereinafter Rignell) (US 5,818,920) in view of Labban (US 6,574,486 B1).

Regarding **Claim 1**, Rignell discloses a method for providing call which reads on the claimed “message” recipient local information (see abstract; col. 3, lines 28-50; Figs. 1-3) comprising the steps of:

identifying an attempt to send a mobile call which reads on the claimed “message” from an originating terminal (A) which reads on the claimed “source” to a receiving handheld terminal (C) which reads on the claimed “device” (see col. 5, lines 5-21);

responsive to said identifying step, determining information local to said receiving handheld device (C) (see col. 5, lines 15-19; Fig. 3), where the local information is the time and time zone of the receiving handheld device; and,

providing said determined local information to said originating source (A), said originating source (A) deciding whether to send said mobile message (call) or terminate said mobile message (call) based upon said determined local information, wherein the local information comprises a location (e.g., Time Zone 2 or geographic area) where the receiving handheld device (C) is located (see col. 5, lines 15-19; col. 4, lines 60-64; col. 2, lines 28-31; col. 6, lines 64-67; Figs. 1-4), where the calling subscriber can confirm or decide whether to

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complete the connection or discontinue. Rignell fails to disclose the feature of a non-voice message. However, the examiner maintains that the non-voice message feature was well known in the art, as taught by Labban.

In the same field of endeavor, Labban discloses the feature a text message which reads on the claimed "non-voice message" (see col. 2, lines 19-26; col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 "ref. 426", 6 "ref. 624"), where the wireless telephone is capable of multiple types of calls possible, including a non-voice message type such as SMS.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature of a non-voice message, in order to facilitate the ease of use of a cellular telephone by displaying to the user a menu of calling options, as taught by Labban (see col. 2, lines 19-26).

Regarding **Claim 2**, the combination of Rignell and Labban discloses everything claimed, as applied above (see claim 1), in addition Rignell further discloses the method according to claim 1, wherein said local information further comprises information selected from the group consisting of a time, date, and day where said receiving handheld device (C) is located (see col. 5, lines 15-19; col. 4, lines 60-64; Figs. 1-4), where the local information is the local time of day and the time zone that the receiving handheld device is located.

Regarding **Claim 3**, Rignell fails to disclose the feature wherein said mobile non-voice message is a text message. However, the examiner maintains that the feature wherein said mobile non-voice message is a text message was well known in the art, as taught by Labban.



Labban further discloses the feature wherein said mobile non-voice message is a text message (see col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 “ref. 426”, 6 “ref. 624”), where the wireless telephone is capable of multiple types of calls possible, including a non-voice message type such as SMS.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature wherein said mobile non-voice message is a text message, in order to facilitate the ease of use of a cellular telephone by displaying to the user a menu of calling options, as taught by Labban (see col. 2, lines 19-26).

Regarding **Claim 4**, Rignell discloses a method for providing message recipient local information (see abstract; col. 7, lines 6-25; Figs. 2-3) comprising the steps of:

initiating a mobile message (call) between an originating source (A) and a receiving handheld device (B) (see col. 7, lines 6-25; Fig. 3);

receiving local information from a service provider which services said receiving handheld device (B) (see col. 7, lines 15-18; col. 4, lines 60-64), where the local information is provided in which the service provider would be obvious; and

processing said mobile message (call) based on said received local information, wherein the local information comprises a location (e.g., Time Zone 2) where the receiving handheld device (C) is located (see col. 7, lines 15-25; col. 2, lines 28-31; col. 6, lines 64-67; Figs. 1-4), where the call would be processed by the calling subscriber according to the local information of the called subscriber. Rignell fails to disclose the feature of a non-voice

message. However, the examiner maintains that the feature a non-voice message was well known in the art, as taught by Labban.

Labban further discloses the feature a text message which reads on the claimed "non-voice message" (see col. 2, lines 19-26; col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 "ref. 426", 6 "ref. 624"), where the wireless telephone is capable of multiple types of calls possible, including a non-voice message type such as SMS.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature of a non-voice message, in order to facilitate the ease of use of a cellular telephone by displaying to the user a menu of calling options, as taught by Labban (see col. 2, lines 19-26).

Regarding **Claim 5**, the combination of Rignell and Labban discloses everything claimed, as applied above (see claim 4), in addition Rignell further discloses the method according to claim 4, wherein said local information further comprises information selected from the group consisting of a time, date, and day where said receiving handheld device (B) is located (see col. 7, lines 15-18; col. 5, lines 15-19; col. 4, lines 60-64; Figs. 1-4), where the local information is the local time of day and the time zone that the receiving handheld device is located.

Regarding **Claim 6**, Rignell fails to disclose the feature wherein said mobile non-voice message is a text message. However, the examiner maintains that the feature wherein said mobile non-voice message is a text message was well known in the art, as taught by Labban.

Labban further discloses the feature wherein said mobile non-voice message is a text message (see col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 “ref. 426”, 6 “ref. 624”), where the wireless telephone is capable of multiple types of calls possible, including a non-voice message type such as SMS.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature wherein said mobile non-voice message is a text message, in order to facilitate the ease of use of a cellular telephone by displaying to the user a menu of calling options, as taught by Labban (see col. 2, lines 19-26).

Regarding **Claim 7**, Rignell discloses the method according to 4, wherein said processing step comprises, selecting an action from the group of actions consisting of connect which reads on the claimed “sending” said mobile message (call) to said receiving handheld device (B), sending said mobile message (call) to a mail box, and not sending said mobile message (call) (see col. 7, line 18-25; col. 8, lines 23-25; Fig. 3), where the calling subscriber can confirm the call by deciding to connect or terminate or be connected to an answering machine or answering service in which the mail box would be obvious. Rignell fails to disclose the feature of a non-voice message. However, the examiner maintains that the feature a non-voice message was well known in the art, as taught by Labban.

Labban further discloses the feature a text message which reads on the claimed “non-voice message” (see col. 2, lines 19-26; col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 “ref. 426”, 6 “ref. 624”), where the wireless telephone is capable of multiple types of calls possible, including a non-voice message type such as SMS.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature of a non-voice message, in order to facilitate the ease of use of a cellular telephone by displaying to the user a menu of calling options, as taught by Labban (see col. 2, lines 19-26).

Regarding **Claim 8**, Rignell discloses a system for providing location-based recipient information (see abstract; col. 3, lines 28-50; col. 5, lines 5-21; col. 6, line 60 - col. 7, line 25; Figs. 1-4) comprising:

- a wireless service provider for providing wireless telephony services to a network of handheld devices (see col. 6, line 60 - col. 7, line 25; Fig. 3);

- a time source for electronically reporting information local to each of said handheld devices (A or B) (see col. 6, line 60 - col. 7, line 5; col. 7, lines 11-15; col. 8, lines 45-47), where the base station, the base station controller, real-time clock, or PSTN is the time source that provides the time; and,

- a notification system configured to provide local information acquired from said time source in response to an attempt to send a mobile message from an originating source to a handheld device in said network, said notification system being further configured to provide said local information prior to sending said mobile message (call), said notification system being yet further configured to delay sending said mobile message (call) until a decision to affirmatively send said mobile message (call) is made at said originating source (A) based on said provided local information, wherein the local information comprises a location (e.g., Time Zone 2 or geographic area) where the receiving handheld device (C) is located (see col. 7, lines 6-25; col. 5, lines 15-19; col. 4, lines 60-64; col. 2, lines 28-31; col. 6, lines 64-67;

Fig. 3), where the local information is provided prior to connecting (sending) the call in which the system waits until the subscriber confirms to connection (sending). Rignell fails to disclose the feature of a non-voice message. However, the examiner maintains that the feature a non-voice message was well known in the art, as taught by Labban.

Labban further discloses the feature a text message which reads on the claimed “non-voice message” (see col. 2, lines 19-26; col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 “ref. 426”, 6 “ref. 624”), where the wireless telephone is capable of multiple types of calls possible, including a non-voice message type such as SMS.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature of a non-voice message, in order to facilitate the ease of use of a cellular telephone by displaying to the user a menu of calling options, as taught by Labban (see col. 2, lines 19-26).

Regarding **Claim 9**, Rignell discloses a machine readable storage having stored thereon, a computer program having a plurality of code sections, said code sections executable by a machine for causing the machine to perform (see abstract; col. 3, lines 28-50; col. 5, lines 5-21; col. 7, line 6-25; Figs. 1-3) the steps of:

identifying an attempt to send a mobile message (call) from an originating source (A) to a receiving handheld device (C) (see col. 5, lines 5-21);

responsive to said identifying step, determining information local to said receiving handheld device (C) (see col. 5, lines 15-19; Fig. 3), where the local information is the time and time zone of the receiving handheld device; and,

providing said determined local information to said originating source (A), said originating source (A) deciding whether to send said mobile message (call) or terminate said mobile message based upon said determined local information, wherein the local information comprises a location (e.g., Time Zone 2 or geographic area) where the receiving handheld device (C) is located (see col. 5, lines 15-19; col. 7, lines 6-25; col. 4, lines 60-64; col. 2, lines 28-31; col. 6, lines 64-67; Fig. 3), where the calling subscriber can confirm or decide whether to complete the connection or discontinue. Rignell fails to disclose the feature of a non-voice message. However, the examiner maintains that the feature a non-voice message was well known in the art, as taught by Labban.

Labban further discloses the feature a text message which reads on the claimed “non-voice message” (see col. 2, lines 19-26; col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 “ref. 426”, 6 “ref. 624”), where the wireless telephone is capable of multiple types of calls possible, including a non-voice message type such as SMS.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature of a non-voice message, in order to facilitate the ease of use of a cellular telephone by displaying to the user a menu of calling options, as taught by Labban (see col. 2, lines 19-26).

Regarding **Claim 10**, the combination of Rignell and Labban discloses everything claimed, as applied above (see claim 9), in addition Rignell further discloses the machine readable storage according to claim 9, wherein said local information further comprises information selected from the group consisting of a time, date, and day where said receiving handheld device (C) is located (see col. 5, lines 15-19; col. 7, lines 15-18; Figs. 1-4), where

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the local information is the local time of day and the time zone that the receiving handheld device is located.

Regarding **Claim 11**, Rignell fails to disclose the feature wherein said mobile non-voice message is a text message. However, the examiner maintains that the feature wherein said mobile non-voice message is a text message was well known in the art, as taught by Labban.

Labban further discloses the feature wherein said mobile non-voice message is a text message (see col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 “ref. 426”, 6 “ref. 624”), where the wireless telephone is capable of multiple types of calls possible, including a non-voice message type such as SMS.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature wherein said mobile non-voice message is a text message, in order to facilitate the ease of use of a cellular telephone by displaying to the user a menu of calling options, as taught by Labban (see col. 2, lines 19-26).

Regarding **Claim 12**, Rignell discloses a machine readable storage having stored thereon, a computer program having a plurality of code sections, said code sections executable by a machine for causing the machine to perform (see abstract; col. 3, lines 28-50; col. 5, lines 5-21; col. 7, lines 6-25; Figs. 1-3) the steps of:

initiating a mobile message (call) between an originating source (A) and a receiving handheld device (B) (see col. 7, lines 6-25; Fig. 3);

receiving local information from a service provider which services said receiving handheld device (B) (see col. 7, lines 15-18; col. 4, lines 60-64), where the local information is provided in which the service provider would be obvious; and

processing said mobile message (call) based on said received local information, wherein the local information comprises a location (e.g., Time Zone 2 or geographic area) where the receiving handheld device (B) is located (see col. 7, lines 6-25; col. 5, lines 15-19; col. 4, lines 60-64; col. 2, lines 28-31; col. 6, lines 64-67; Fig. 3), where the call would be processed by the calling subscriber according to the local information of the called subscriber. Rignell fails to disclose the feature of a non-voice message. However, the examiner maintains that the feature a non-voice message was well known in the art, as taught by Labban.

Labban further discloses the feature a text message which reads on the claimed “non-voice message” (see col. 2, lines 19-26; col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 “ref. 426”, 6 “ref. 624”), where the wireless telephone is capable of multiple types of calls possible, including a non-voice message type such as SMS.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature of a non-voice message, in order to facilitate the ease of use of a cellular telephone by displaying to the user a menu of calling options, as taught by Labban (see col. 2, lines 19-26).

Regarding **Claim 13**, the combination of Rignell and Labban discloses everything claimed, as applied above (see claim 12), in addition Rignell further discloses the machine readable storage according to claim 12, wherein said local information further comprises information selected from the group consisting of a time, date, and day where said receiving



handheld device (B) is located (see col. 7, lines 15-18; col. 5, lines 15-19; col. 4, lines 60-64; Figs. 1-4), where the local information is the local time of day and the time zone that the receiving handheld device is located.

Regarding **Claim 14**, Rignell fails to disclose the feature wherein said mobile non-voice message is a text message. However, the examiner maintains that the feature wherein said mobile non-voice message is a text message was well known in the art, as taught by Labban.

Labban further discloses the feature wherein said mobile non-voice message is a text message (see col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 “ref. 426”, 6 “ref. 624”), where the wireless telephone is capable of multiple types of calls possible, including a non-voice message type such as SMS.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature wherein said mobile non-voice message is a text message, in order to facilitate the ease of use of a cellular telephone by displaying to the user a menu of calling options, as taught by Labban (see col. 2, lines 19-26).

Regarding **Claim 15**, Rignell discloses the machine readable storage according to 12, wherein said processing step comprises, selecting an action from the group of actions consisting of sending said mobile message (call) to said receiving handheld device (B), sending said mobile message (call) to a mail box, and not sending said mobile message (call) (see col. 7, lines 18-25; col. 8, lines 23-25), where the calling subscriber can confirm the call by deciding to connect or terminate or be connected to an answering machine or answering

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service in which the mail box would be obvious. Rignell fails to disclose the feature of a non-voice message. However, the examiner maintains that the feature a non-voice message was well known in the art, as taught by Labban.

Labban further discloses the feature a text message which reads on the claimed "non-voice message" (see col. 2, lines 19-26; col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 "ref. 426", 6 "ref. 624"), where the wireless telephone is capable of multiple types of calls possible, including a non-voice message type such as SMS.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature of a non-voice message, in order to facilitate the ease of use of a cellular telephone by displaying to the user a menu of calling options, as taught by Labban (see col. 2, lines 19-26).

**Claim 19** is rejected under 35 U.S.C. 103(a) as being unpatentable over Rignell et al. (hereinafter Rignell) (US 5,818,920) in view of Moon et al. (hereinafter Moon) (US 6,075,992).

Regarding **Claim 19**, Rignell discloses the step of when the originating call source decides to terminate said telephone call, deferring said telephone call (see col. 8, lines 23-25; col. 7, lines 18-25), where the calling subscriber can be deferred such as being directed to an answering machine. Rignell fails to disclose having the feature which results in automatically placing the call at an appropriate time as defined by the originating call source. However, the examiner maintains that the feature which results in automatically placing the

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call at an appropriate time as defined by the originating call source was well known in the art, as taught by Moon.

In the same field of endeavor, Moon discloses the feature which results in automatically placing the call at an appropriate time as defined by the originating call source (see col. 5, line 18 - col. 6, line 7; Figs. 1, 7), where the portable intelligent communications device (10) can automatically place a call by scheduling the call according to time ranges.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Moon to have the feature which results in automatically placing the call at an appropriate time as defined by the originating call source, in order to automatically initiate a call to a recipient depending on the local time of such recipient, as taught by (see col. 1, lines 63-64; col. 2, lines 9-12).

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
- a. **Dunn et al. (US 6,138,008)** discloses a *Wireless Telephone Menu System*.
  - b. **Seppo (UK 2,284,965)** discloses *Automatic Time of Day Calculation for a Radio Telephone, Fax Machine, or Computer*.


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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Willie J. Daniel, Jr. whose telephone number is (703) 305-8636. The examiner can normally be reached on 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha D. Banks-Harold can be reached on (703) 305-4379. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WJD,JR  
15 February 2005

  
**CHARLES APPIAH**  
**PRIMARY EXAMINER**